

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 531

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 9-340C, IDAHO CODE, TO PROVIDE FOR THE CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO IDAHO FISH AND GAME LICENSES, PERMITS AND TAGS; AMENDING SECTION 36-402, IDAHO CODE, TO PROVIDE FOR THE CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO IDAHO FISH AND GAME LICENSES, PERMITS AND TAGS; AMENDING SECTION 36-1510, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS RELATING TO INTERFERENCE WITH THE TAKING OR CONTROL OF WILDLIFE ALSO APPLY TO TRAPPING, TO PROHIBIT INTENTIONAL INTERFERENCE WITH LAWFUL WILDLIFE CONTROL BY ANOTHER, TO DELETE THE PROHIBITION OF ENTERING OR REMAINING IN AN AREA WHERE AN ANIMAL MAY BE TAKEN WITH THE INTENT TO INTERFERE WITH THE LAWFUL TAKING OR PURSUIT OF WILDLIFE, TO PROHIBIT CERTAIN HARASSMENT, INTIMIDATION OR THREATS RELATING TO THE LAWFUL TAKING AND CONTROL OF FISH AND WILDLIFE AND TO CLARIFY THAT CERTAIN PROHIBITIONS SHALL NOT APPLY TO CONSTITUTIONALLY PROTECTED ACTIVITIES; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 9-340C, Idaho Code, be, and the same is hereby amended to read as follows:

9-340C. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PERSONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following records are exempt from disclosure:

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. Names of applicants to classified or merit system positions shall not be disclosed to the public without the applicant's written consent. Disclosure of names as part of a background check is permitted. Names of the five (5) final applicants to all other positions shall be available to the public. If such group is less than five (5) finalists, then the entire list of applicants shall be available to the public. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(2) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership

1 records; active and inactive member financial and membership records  
2 and mortgage portfolio loan documents maintained by the public employee  
3 retirement system. Financial statements prepared by retirement system  
4 staff, funding agents and custodians concerning the investment of assets  
5 of the public employee retirement system of Idaho are not considered  
6 confidential under this chapter.

7 (3) Information and records submitted to the Idaho state lottery  
8 for the performance of background investigations of employees, lottery  
9 retailers and major procurement contractors; audit records of lottery  
10 retailers, vendors and major procurement contractors submitted to or  
11 performed by the Idaho state lottery; validation and security tests of the  
12 state lottery for lottery games; business records and information submitted  
13 pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code,  
14 and such documents and information obtained and held for the purposes of  
15 lottery security and investigative action as determined by lottery rules  
16 unless the public interest in disclosure substantially outweighs the  
17 private need for protection from public disclosure.

18 (4) Records of a personal nature as follows:

19 (a) Records of personal debt filed with a public agency or independent  
20 public body corporate and politic pursuant to law;

21 (b) Personal bank records compiled by a public depositor for the  
22 purpose of public funds transactions conducted pursuant to law;

23 (c) Records of ownership of financial obligations and instruments  
24 of a public agency or independent public body corporate and politic,  
25 such as bonds, compiled by the public agency or independent public body  
26 corporate and politic pursuant to law;

27 (d) Records, with regard to the ownership of, or security interests in,  
28 registered public obligations;

29 (e) Vital statistics records; and

30 (f) Military records as described in and pursuant to section 65-301,  
31 Idaho Code.

32 (5) Information in an income or other tax return measured by items of  
33 income or sales, which is gathered by a public agency for the purpose of  
34 administering the tax, except such information to the extent disclosed in  
35 a written decision of the tax commission pursuant to a taxpayer protest of  
36 a deficiency determination by the tax commission, under the provisions of  
37 section 63-3045B, Idaho Code.

38 (6) Records of a personal nature related directly or indirectly  
39 to the application for and provision of statutory services rendered to  
40 persons applying for public care for the elderly, indigent, or mentally or  
41 physically handicapped, or participation in an environmental or a public  
42 health study, provided the provisions of this subsection making records  
43 exempt from disclosure shall not apply to the extent that such records or  
44 information contained in those records are necessary for a background check  
45 on an individual that is required by federal law regulating the sale of  
46 firearms, guns or ammunition.

47 (7) Employment security information, except that a person may agree,  
48 through written, informed consent, to waive the exemption so that a third  
49 party may obtain information pertaining to the person, unless access to  
50 the information by the person is restricted by subsection (3)(a), (3)(b)

1 or (3) (d) of section 9-342, Idaho Code. Notwithstanding the provisions of  
2 section 9-342, Idaho Code, a person may not review identifying information  
3 concerning an informant who reported to the department of labor a suspected  
4 violation by the person of the employment security law, chapter 13, title 72,  
5 Idaho Code, under an assurance of confidentiality. As used in this section  
6 and in chapter 13, title 72, Idaho Code, "employment security information"  
7 means any information descriptive of an identifiable person or persons that  
8 is received by, recorded by, prepared by, furnished to or collected by the  
9 department of labor or the industrial commission in the administration of  
10 the employment security law.

11 (8) Any personal records, other than names, business addresses and  
12 business phone numbers, such as parentage, race, religion, sex, height,  
13 weight, tax identification and social security numbers, financial worth or  
14 medical condition submitted to any public agency or independent public body  
15 corporate and politic pursuant to a statutory requirement for licensing,  
16 certification, permit or bonding.

17 (9) Unless otherwise provided by agency rule, information obtained  
18 as part of an inquiry into a person's fitness to be granted or retain a  
19 license, certificate, permit, privilege, commission or position, private  
20 association peer review committee records authorized in title 54, Idaho  
21 Code. Any agency which has records exempt from disclosure under the  
22 provisions of this subsection shall annually make available a statistical  
23 summary of the number and types of matters considered and their disposition.

24 (10) The records, findings, determinations and decisions of any  
25 prelitigation screening panel formed under chapters 10 and 23, title 6,  
26 Idaho Code.

27 (11) Complaints received by the board of medicine and investigations  
28 and informal proceedings, including informal proceedings of any committee  
29 of the board of medicine, pursuant to chapter 18, title 54, Idaho Code, and  
30 rules adopted thereunder.

31 (12) Records of the department of health and welfare or a public health  
32 district that identify a person infected with a reportable disease.

33 (13) Records of hospital care, medical records, including  
34 prescriptions, drug orders, records or any other prescription information  
35 that specifically identifies an individual patient, prescription records  
36 maintained by the board of pharmacy under sections 37-2726 and 37-2730A,  
37 Idaho Code, records of psychiatric care or treatment and professional  
38 counseling records relating to an individual's condition, diagnosis, care  
39 or treatment, provided the provisions of this subsection making records  
40 exempt from disclosure shall not apply to the extent that such records or  
41 information contained in those records are necessary for a background check  
42 on an individual that is required by federal law regulating the sale of  
43 firearms, guns or ammunition.

44 (14) Information collected pursuant to the directory of new hires act,  
45 chapter 16, title 72, Idaho Code.

46 (15) Personal information contained in motor vehicle and driver records  
47 that is exempt from disclosure under the provisions of chapter 2, title 49,  
48 Idaho Code.

49 (16) Records of the financial status of prisoners pursuant to  
50 subsection (2) of section 20-607, Idaho Code.

1 (17) Records of the Idaho state police or department of correction  
2 received or maintained pursuant to section 19-5514, Idaho Code, relating to  
3 DNA databases and databanks.

4 (18) Records of the department of health and welfare relating to a  
5 survey, resurvey or complaint investigation of a licensed nursing facility  
6 shall be exempt from disclosure. Such records shall, however, be subject  
7 to disclosure as public records as soon as the facility in question has  
8 received the report, and no later than the fourteenth day following the  
9 date that department of health and welfare representatives officially exit  
10 the facility pursuant to federal regulations. Provided however, that for  
11 purposes of confidentiality, no record shall be released under this section  
12 which specifically identifies any nursing facility resident.

13 (19) Records and information contained in the registry of immunizations  
14 against childhood diseases maintained in the department of health and  
15 welfare, including information disseminated to others from the registry by  
16 the department of health and welfare.

17 (20) Records of the Idaho housing and finance association (IHFA)  
18 relating to the following:

19 (a) Records containing personal financial, family, health or similar  
20 personal information submitted to or otherwise obtained by the IHFA;

21 (b) Records submitted to or otherwise obtained by the IHFA with regard  
22 to obtaining and servicing mortgage loans and all records relating to  
23 the review, approval or rejection by the IHFA of said loans;

24 (c) Mortgage portfolio loan documents;

25 (d) Records of a current or former employee other than the employee's  
26 duration of employment with the association, position held and location  
27 of employment. This exemption from disclosure does not include the  
28 contracts of employment or any remuneration, including reimbursement  
29 of expenses, of the executive director, executive officers or  
30 commissioners of the association. All other personnel information  
31 relating to an association employee or applicant including, but not  
32 limited to, information regarding sex, race, marital status, birth  
33 date, home address and telephone number, applications, testing and  
34 scoring materials, grievances, correspondence, retirement plan  
35 information and performance evaluations, shall not be disclosed to  
36 the public without the employee's or applicant's written consent.  
37 An employee or authorized representative may inspect and copy that  
38 employee's personnel records, except for material used to screen and  
39 test for employment or material not subject to disclosure elsewhere in  
40 the Idaho public records act.

41 (21) Records of the department of health and welfare related to child  
42 support services in cases in which there is reasonable evidence of domestic  
43 violence, as defined in chapter 63, title 39, Idaho Code, that can be used  
44 to locate any individuals in the child support case except in response to a  
45 court order.

46 (22) Records of the Idaho state bar lawyer assistance program pursuant  
47 to chapter 49, title 54, Idaho Code, unless a participant in the program  
48 authorizes the release pursuant to subsection (4) of section 54-4901, Idaho  
49 Code.

1 (23) Records and information contained in the trauma registry created  
 2 by chapter 20, title 57, Idaho Code, together with any reports, analyses and  
 3 compilations created from such information and records.

4 (24) Records contained in the court files, or other records prepared as  
 5 part of proceedings for judicial authorization of sterilization procedures  
 6 pursuant to chapter 39, title 39, Idaho Code.

7 (25) The physical voter registration card on file in the county clerk's  
 8 office; however, a redacted copy of said card shall be made available  
 9 consistent with the requirements of this section. Information from the  
 10 voter registration card maintained in the statewide voter registration  
 11 database, including age, will be made available except for the voter's  
 12 driver's license number, date of birth and, upon showing of good cause by  
 13 the voter to the county clerk in consultation with the county prosecuting  
 14 attorney, the physical residence address of the voter. For the purposes of  
 15 this subsection good cause shall include the protection of life and property  
 16 and protection of victims of domestic violence and similar crimes.

17 (26) File numbers, passwords and information in the files of the health  
 18 care directive registry maintained by the secretary of state under section  
 19 39-4515, Idaho Code, are confidential and shall not be disclosed to any  
 20 person other than to the person who executed the health care directive or the  
 21 revocation thereof and that person's legal representatives, to the person  
 22 who registered the health care directive or revocation thereof, and to  
 23 physicians, hospitals, medical personnel, nursing homes, and other persons  
 24 who have been granted file number and password access to the documents within  
 25 that specific file.

26 (27) Records in an address confidentiality program participant's  
 27 file as provided for in chapter 57, title 19, Idaho Code, other than the  
 28 address designated by the secretary of state, except under the following  
 29 circumstances:

30 (a) If requested by a law enforcement agency, to the law enforcement  
 31 agency; or

32 (b) If directed by a court order, to a person identified in the order.

33 (28) Any personal information including, but not limited to, names,  
 34 personal and business addresses and phone numbers, sex, height, weight,  
 35 date of birth, social security and driver's license numbers, or any other  
 36 identifying numbers and/or information related to any Idaho fish and game  
 37 licenses, permits and tags unless written consent is obtained from the  
 38 affected person.

39 SECTION 2. That Section 36-402, Idaho Code, be, and the same is hereby  
 40 amended to read as follows:

41 36-402. LICENSES -- AUTHORITY -- LIMITATIONS -- CONFIDENTIALITY. The  
 42 licenses mentioned in this chapter shall entitle the person to whom issued  
 43 to take such wildlife as may be authorized by said license, subject to  
 44 the limitations set forth under this title and commission regulations  
 45 promulgated pursuant thereto. Any personal information including, but not  
 46 limited to, names, personal and business addresses and phone numbers, sex,  
 47 height, weight, date of birth, social security and driver's license numbers,  
 48 or any other identifying numbers and/or information related to any Idaho

1 fish and game licenses, permits and tags unless written consent is obtained  
 2 from the affected person.

3 SECTION 3. That Section 36-1510, Idaho Code, be, and the same is hereby  
 4 amended to read as follows:

5 36-1510. INTERFERENCE WITH HUNTING, FISHING ~~AND PREDATOR~~, TRAPPING OR  
 6 WILDLIFE CONTROL. (1) No person shall:

7 (a) Intentionally interfere with the lawful taking or control of  
 8 wildlife ~~or lawful predator control~~ by another; or

9 (b) Intentionally harass, bait, drive or disturb any animal for the  
 10 purpose of disrupting lawful pursuit or taking thereof; or

11 (c) ~~Enter or remain in any area where any animal may be taken with the~~  
 12 ~~intent to interfere with the lawful taking or pursuit of wildlife; or~~

13 ~~(d) Damage or destroy in any way any lawful hunting blind with the~~  
 14 ~~intent to interfere with its usage for hunting; or~~

15 (d) Harass, intimidate or threaten by any means including, but not  
 16 limited to, personal or written contact, or via telephone, e-mail or  
 17 website, any person who is or was engaged in the lawful taking or control  
 18 of fish or wildlife.

19 (2) Any fish and game enforcement officer or peace officer who  
 20 reasonably believes that a person has violated provisions of this section  
 21 may arrest such person therefor.

22 (3) (a) The conduct declared unlawful in this section does not include  
 23 any incidental interference arising from lawful activity by land users  
 24 or interference by a landowner or members of his immediate family  
 25 arising from activities on his own property.

26 (b) The conduct declared unlawful in this section does not include  
 27 constitutionally protected activity.

28 (4) Every person convicted or entering a plea of guilty or of nolo  
 29 contendere for violation of this section is subject to a fine of not to exceed  
 30 one thousand five hundred dollars (\$1,500) or confinement for six (6) months  
 31 in the county jail, or both such fine and confinement.

32 (5) In addition to the penalties provided in subsection (4) of this  
 33 section, any person who is damaged by any act prohibited in this section  
 34 may recover treble civil damages. A party seeking civil damages under this  
 35 subsection (5) may recover upon proof of a violation of the provisions of  
 36 this section by a preponderance of the evidence. The state of Idaho, or any  
 37 person may have relief by injunction against violations of the provisions of  
 38 this section. Any party recovering judgment under this subsection (5) may be  
 39 awarded a reasonable attorney's fee.

40 SECTION 4. SEVERABILITY. The provisions of this act are hereby declared  
 41 to be severable and if any provision of this act or the application of such  
 42 provision to any person or circumstance is declared invalid for any reason,  
 43 such declaration shall not affect the validity of the remaining portions of  
 44 this act.

45 SECTION 5. An emergency existing therefor, which emergency is hereby  
 46 declared to exist, this act shall be in full force and effect on and after its  
 47 passage and approval.